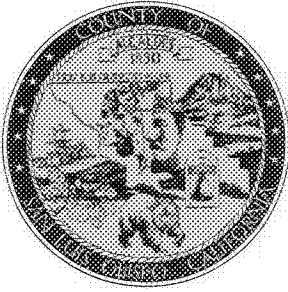


4-1



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

DATE: NOVEMBER 30, 2005

TO: PLANNING COMMISSION

FROM: JAMES CARUSO, SENIOR PLANNER

**SUBJECT: APPEAL OF PLANNING DIRECTOR'S DECISION REGARDING
LACK OF COMPLIANCE WITH CONDITIONS OF APPROVAL OF
THE AVILA LIGHTHOUSE SUITES HOTEL.**

SUMMARY

Title 23 states that certain decisions of the Planning Director and Planning Department staff are appealable to the Planning Commission including any determinations of consistency with the Land Use Element.

The Avila Lighthouse Suites Hotel (represented by Dennis Law) has appealed the Department's determination that the roof installed on the hotel does not meet the Avila Beach Specific Plan's requirement that roofs are to be non-reflective.

BACKGROUND

The hotel's Development Plan was approved on April 11, 2002. Construction, begun in 2004, is now winding down. The application was reviewed by the Avila Valley Advisory Council's Avila Beach sub-committee. The sub-committee reported support for the project with several understandings. One of those understandings was that the roof would meet the Specific Plan's standard as "non-reflective". The Planning Commission approved the Development Plan (D020188D) in April 2001.

After commencement of construction, the applicant requested permission to conduct a "monolithic pour" in September 2004 in order to properly construct the project's foundation. Staff approved the 18 hour around the clock concrete work in September 2004.

Staff received inquiries regarding the roof from sub-committee members during the summer of 2005. Soon after, photographs were submitted that showed the roof to be highly reflective at the time the photos were taken. Staff shared the

H-2

November 30, 2005

photos with the applicant and requested that action be taken so that the roof would be non-reflective. The applicant has stated that there is no acceptable method to do that.

ISSUES OF APPEAL

The appellant states that the color and material of the roof was approved by staff and the Planning Commission. The appellant further states the staff report and the conditions of approval support this assertion.

Response: The staff report actually questions whether the roof material would be non-reflective. The staff report states, in the consistency with Specific plan section:

"The proposed metal roof appears in the samples to be non-reflective".

The staff report conditions of approval state:

6. The final design of the structure shall be consistent with the Avila Beach Specific Plan.

This statement is based on discussions with the Avila Valley Advisory Council's Avila Beach sub-committee. The members questioned whether such a material could be non-reflective. That is the reason for the language in the AVAC section of the staff report. The sub committee stated that they will support the project with the assumption that the roof meets the non-reflective criteria in the Specific Plan. It was members of the sub-committee that brought this problem to staff's attention in July 2005.

Conclusion

It is the applicant's responsibility to ensure that the building meets the requirements of the Specific Plan. The roof material's compliance with the Specific Plan was questioned during the process. This has occurred with several projects that propose metal roofs. As the AVAC sub committee and the staff report state, the assumption was made, at the applicant's request, that the metal roof would meet this requirement. This has turned out to not be the case.

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#607

Coastal Zone Appeal Application**San Luis Obispo County Department of Planning and Building****NOTE:**

To appeal a Board of Supervisors decision you will need to obtain appeal forms from the California Coastal Commission - 725 Front Street, Suite 300 - Santa Cruz, CA (408) 427-4863.

*James Caruso - Planner***PROJECT INFORMATION**

Type of permit being appealed:

- ☐ Plot Plan ☐ Minor Use Permit ☒ Development Plan ☐ Variance ☐ Land Division
☐ Lot Line Adjustment ☒ Other Decision rejecting roof materials File Number: D 0101880

The decision was made by:

- ☒ Planning Director ☐ Building Official ☐ Administrative Hearing Officer ☐ Subdivision Review Board
☐ Planning Commission ☐ Other _____ Date the application was acted on _____

The decision is appealed to:

- ☐ Board of Construction Appeals ☐ Board of Handicapped Access ☒ Planning Commission ☐ Board of Supervisors

BASIS FOR APPEAL

Please note: An appeal must be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

- ☐ **INCOMPATIBLE WITH THE LCP.** The development does not conform to the standards set forth in the certified Local Coastal Program of the county for the following reasons (*attach additional sheets if necessary*)

Explain: _____

- ☐ **INCOMPATIBLE WITH PUBLIC ACCESS POLICIES:** The development does not conform to the public access policies of the California Coastal Act - Section 30210 et seq. Of the Public Resource Code (*attach additional sheets if necessary*)

Explain: _____

Specific Conditions. The specific conditions that I wish to appeal that relate to the above referenced grounds for appeal are:

Condition Number	Reason for appeal (<i>attach additional sheets if necessary</i>)
	SEE ATTACHED

APPELLANT INFORMATIONPrint name: Dennis D. Law

Address: Andre, Morris & Buttery, A Prof. Law Corp.
1102 Laurel Lane, San Luis Obispo, CA 93401

Phone Number (daytime): (805) 543-4171
(Marion)

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the following grounds, as specified in the CZLUO and State Public Resource Code Section 30603 and have completed this form accurately and declare all statements made here are true.

Signature

Oct. 12, 2005
 Date

OFFICE USE ONLYDate Received: 10/13/05Amount Paid: \$By: Lona FranklinReceipt No. (if applicable): fee to be determined

Revised 5/05/04/LF

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600 • 1-800-834-4636

EMAIL: ipcplng@slonet.org

FAX: (805) 781-1242

WEBSITE: <http://www.slocoplanbldg.com>

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COASTAL ZONE APPEAL APPLICATION
San Luis Obispo County Department of Planning and Building

Basis for Appeal (Attachment)

I. Background

Planning Commission Resolution No. 2002-25 granted Permit No. D010188D, allowing for construction of a hotel and conference center (Lighthouse Suites"). In its Findings, the Planning Commission found the project consistent with the development standards of the Avila Beach Specific Plan and with all other elements of the general plan. A copy of this Resolution is attached as Exhibit A.

The County now says that the roof materials do not meet the requirements of the Avila Beach Specific Plan; that is, the roofing materials are not non-reflective. The roofing materials used in the construction are the same as those samples provided to the county, and approved. Therefore, we contend we have complied with all conditions of the Specific Plan.

II. Reason for Appeal

As a condition of approval, the Planning Commission required that the colors and materials at the project to be "substantially similar to the colors and materials identified by the applicant and approved by the Commission." (Conditions of Approval, Exhibit B to Resolution). However, the roofing materials used by the applicant are the same as the color sample submitted to the County and approved by the Commission; that is, McElroy Metal, Inc. Kynar 500, color: Ash Gray.

In excerpts from the Planning and Building Staff Report submitted at the April 11, 2002 Planning Commission hearing, James Caruso noted that the Avila Valley Advisory Council determined that "the proposed roof materials meets the Specific Plan requirements as non-reflective." A copy of the Staff Report is attached as Exhibit B. The roof materials installed on the Lighthouse Suites Project are the same McElroy Metal samples submitted to the Planning Commission, which were found to be non-reflective, and approved.

This appeal is submitted based on a letter dated September 29, 2005, from James Caruso, County Department of Planning and Building. In his letter, Mr. Caruso states that the roofing material is not non-reflective, and therefore the final design of the structure is unacceptable because it does not meet the requirements of the Avila Beach Specific Plan.

We strongly disagree. The Planning Commission unanimously approved the development plan and the roof materials identified and on file with the department of Planning and Building. The Staff Report likewise indicates Planning and Building reviewed the plan and found the roof material did meet the Avila Beach Specific Plan requirements. (See Exhibit B, page 5).

To satisfy these requirements, we would need to install materials substantially similar to the approved plan. That is what we have done. We have installed McElroy Metal, Inc. Kynar 500, Ash Gray, the same sample submitted to the County and approved by the Commission.

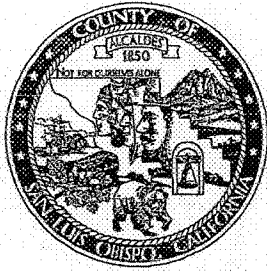
The Avila Beach Specific Plan has no quantifiable objective standard. Rule B.7.3 of the Plans states only that "roof materials shall be non-reflective." (Copy attached as Exhibit C.) This is a subjective standard. There is no objective measurement. A more objective standard would provide a reflective rating or other criterion. As such, we can only rely upon the conclusions of the Planning Commission and their approval of the roof materials. With this type of subjective determination, we cannot leave the matter to be resolved after the roof is installed, and the hotel is ready to open for business. To require replacement would be an unwarranted financial burden.

The foregoing is a summary of the information and grounds that support this appeal. Additional information will be provided before a hearing takes place.

III. Conclusion

We believe we have satisfied the criteria as approved in the permit. The permit allowed for the roof material which meets the Specific Plan requirements. The samples submitted to the Planning Commission were determined to meet these requirements as non-reflective, and were approved. These standards cannot be changed after the permit is issued.

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SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

August 5, 2005

Brian Starr
SDG Architects
641 Higuera St; Ste 303
San Luis Obispo, CA 93401

Dear Mr. Starr:

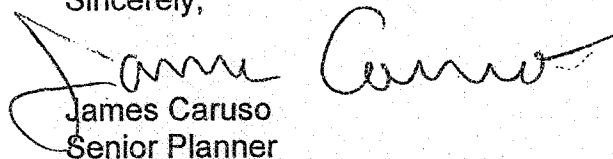
SUBJECT: MARTIN HOTEL ROOFING MATERIAL (D010188D)

This Department has reviewed your letter regarding the reflectivity of the roofing material installed on the subject project.

Please be advised that our previous letter regarding non-compliance with the Avila Beach Specific Plan still stands. The language of the Plan is plain and clear; the roofing material must be non-reflective. The roof must be brought into conformance with the Specific Plan prior to issuance of a certificate of occupancy. You may wish to submit a plan to this Department as soon as possible that details how you propose to meet the roofing requirements of the Specific Plan. This plan must be approved by this Department.

Please feel free to contact me at 781-5702 (jcaruso@co.slo.ca.us) to discuss your plan for compliance.

Sincerely,


James Caruso
Senior Planner

c: Todd Youngdale
Steve Hicks
Avila Valley Advisory Council

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SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

September 29, 2005

Dennis Law
Andre, Morris and Buttery
P.O. Box 730
San Luis Obispo, CA 93406

Dear Mr. Law:

SUBJECT: MARTIN HOTEL ROOFING MATERIAL (D010188D)

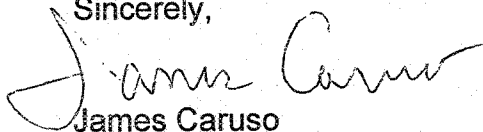
This Department has reviewed your letter regarding the Department's position on the reflectivity of the roofing material installed on the subject project. We have consulted with Department management and County Counsel.

Please be advised that our previous letter regarding non-compliance with the Avila Beach Specific Plan still stands. The language of the Plan is plain and clear; the roofing material must be non-reflective. I have enclosed photocopies of pictures taken of the roof that shows it as highly reflective. Also, the staff report prepared for the Planning Commission hearing on April 11, 2002 clearly states: 1. the roofing material appears to conform with the Plan and; 2. Condition number 6 requires the final design of the structure to be in conformance with the Specific Plan. It is also noted that the material sample submitted with the land use permit application is a representation of the material and color.

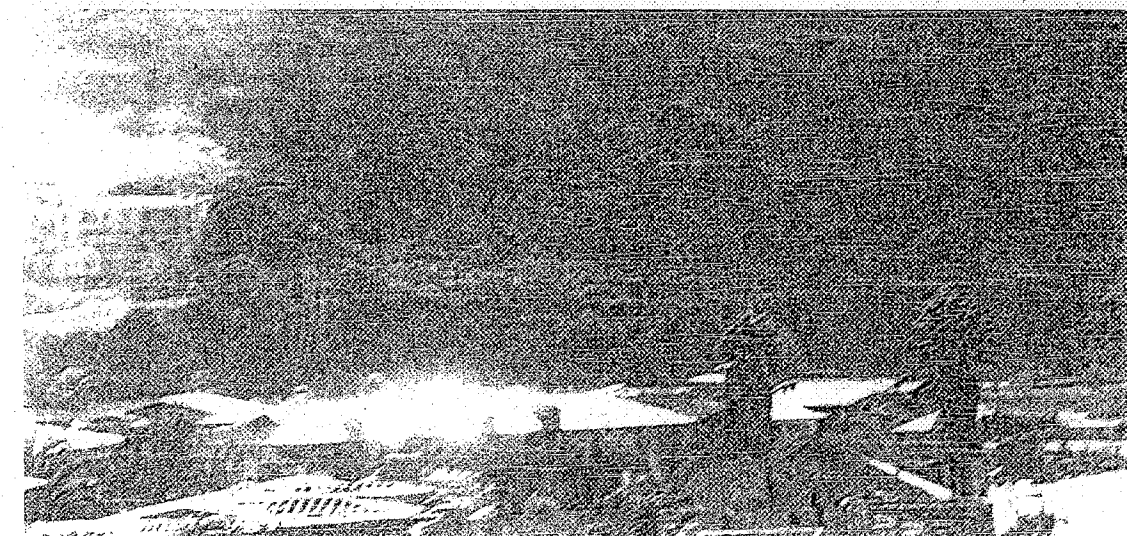
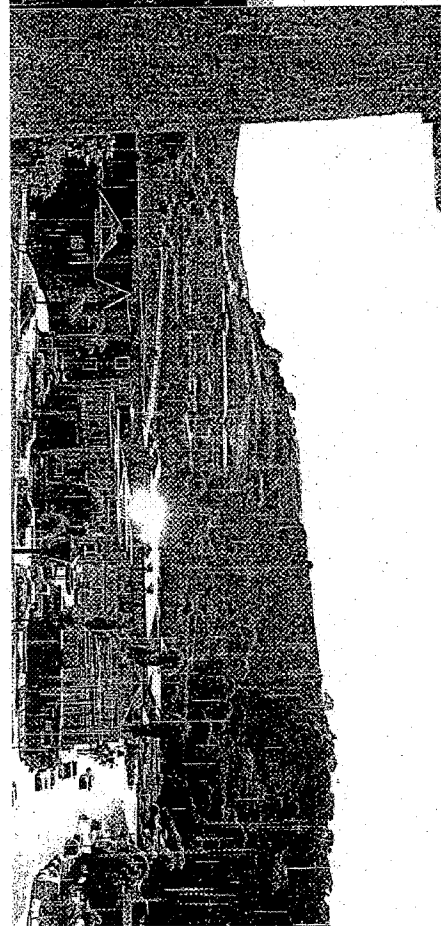
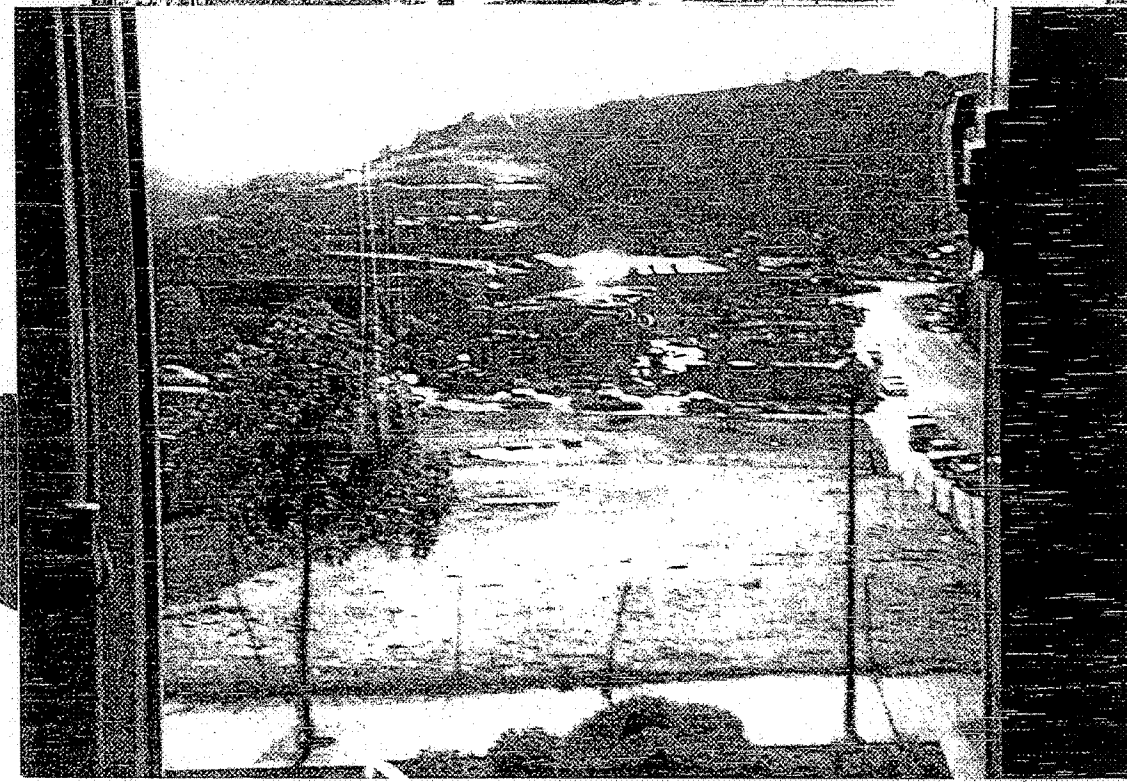
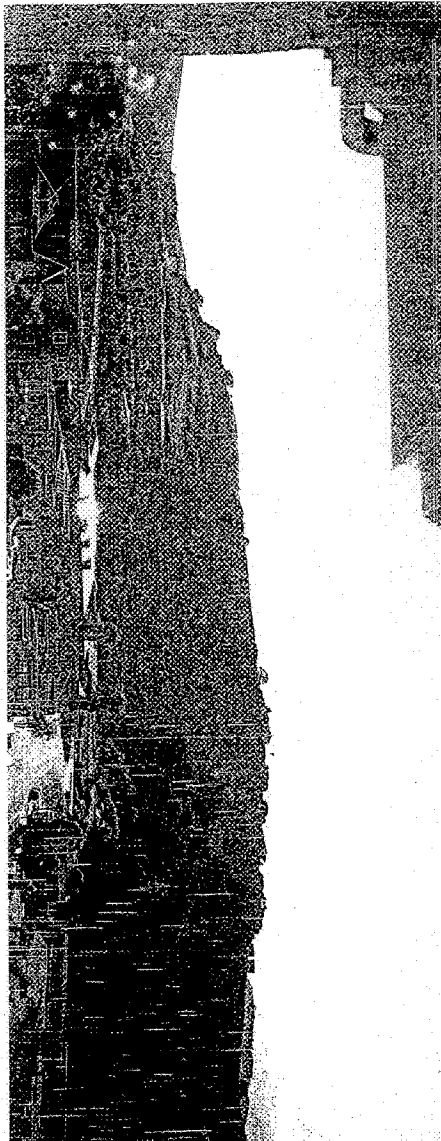
The last time this Department met with the applicant to discuss this issue, the project owner and architect did not offer any alternative solutions to this problem. It is suggested that this is the time to work on such solutions. Pursuant Coastal Zone Land Use Ordinance section 23.01.042, the Department's determination is appealable to the Planning Commission.

Please feel free to contact me at 781-5702 to discuss your plan for compliance.

Sincerely,


James Caruso
Senior Planner

c: Todd Youngdale
Warren Hoag
James Orton



PLANNING COMMISSION
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tuesday, April 11, 2002

PRESENT: Commissioners Doreen Liberto-Blanch, Eugene Mehlschau, Bob Roos, Chairman,
Wayne Cooper

ABSENT: Commissioner Cynthia Boche

RESOLUTION NO. 2002-25
RESOLUTION RELATIVE TO THE GRANTING
OF A DEVELOPMENT PLAN/COASTAL DEVELOPMENT PERMIT

WHEREAS, The County Planning Commission of the County of San Luis Obispo, State of California, did, on the 11th day of April, 2002, grant a Development Plan/Coastal Development Permit to UNOCAL CORP./MARTIN RESORTS to allow construction of a 54 room hotel, 2,100 square foot conference room, and 58 parking spaces, in the Commercial Retail Land Use Category. The property is located in the county in the square block bounded by San Juan, San Francisco, Front and 1st Street, in the Town of Avila Beach, APN: 076-214-003, in the San Luis Bay (Coastal) Planning Area. County File Number: D010188D.

WHEREAS, The Planning Commission, after considering the facts relating to such application, approves this Permit subject to the Findings listed in Exhibit A.

WHEREAS, The Planning Commission, after considering the facts relating to such application, approves this Permit subject to the Conditions listed in Exhibit B.

NOW, THEREFORE, BE IT RESOLVED, That the Planning Commission of the County of San Luis Obispo, State of California, in a regular meeting assembled on the 11th day of April, 2002, does hereby grant the aforesaid Permit No. D010188D.

If the use authorized by this Permit approval has not been established or if substantial work on the property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through conditions of approval of this Permit, this approval shall expire and become void unless an extension

Exhibit A

Page 1 of 5

of time has been granted pursuant to the provisions of Section 23.02.050 of the Land Use Ordinance.

If the use authorized by this Permit approval, once established, is or has been unused, abandoned, discontinued, or has ceased for a period of six months (6) or conditions have not been complied with, such Permit approval shall become void.

On motion of Commissioner Liberto-Blanch, seconded by Commissioner Roos, and the following roll call vote, to-wit:

AYES: Commissioner Liberto-Blanch, Roos, Mehlschau, Chairman Cooper

NOES: None

ABSENT: Commissioner Roche

the foregoing resolution is hereby adopted.

Wanda Cooper
Chairman of the Planning Commission

ATTEST:

Diana R. Tingle
Secretary, Planning Commission

Planning Commission Meeting
March Development Plan 00101832

Exhibit A
00101832-Exhibit

- A. As conditioned the proposed project is consistent with the Local Coastal Program and the Land Use Element of the general plan because transient occupancy uses are permitted in the Commercial Retail land use category. The proposed project is also consistent with the development standards of the Avila Beach Specific Plan and with all other elements of the general plan.
- B. As conditioned, the project or use satisfies all applicable provisions of Title 23 of the San Luis Obispo County Code.
- C. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in this particular case, be detrimental to the health, safety or welfare of the general working public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the project is subject to Ordinance and Building Code requirements designed to address health, safety, and welfare concerns.
- D. The proposed project or use will not be inconsistent with the character of the immediate neighborhood, or contrary to its orderly development because the Specific Plan allows transient occupancy in this area.
- E. The project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the LOS on area roads will remain above LOS C and the proposed use will be subject to Avila area circulation fees.
- F. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because of the project is located across a public street from the beach and the project will not inhibit access to coastal waters and recreation areas.
- G. Pursuant to Section 15183 of the CEQA Guidelines, the proposed project has been found to be consistent with the development density adopted in the Avila Beach Specific Plan for which a Final EIR was certified by the Board of Supervisors on April 11, 2000. There are no project-specific significant effects which are peculiar to the project or its site. Furthermore, the mitigation measures identified in the certified Final EIR prepared for the Specific Plan shall be implemented for this project as applicable.

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Planning & Building
Major Development File 0010153D

EXHIBIT A
Condition of Approval - D010153D

Approved Development

1. This approval authorizes the construction of:
 - a. a 54 room hotel
 - b. 58 parking spaces as shown on the approved site plan
 - c. Conference room
 - d. Dining area

Traffic and Circulation

2. Prior to issuance of a building permit, obtain an encroachment permit from the county Public Works Department for work to be done within the county right-of-way.
3. The development is subject to Avila traffic fees.

Site Development

4. Site development shall be consistent with the approved site plan, floor plans and elevations. The rear setback shall be 10 feet as required by the Specific Plan or as may be allowed by the Coastal Zone Land Use Ordinance, Title 23. Colors and materials shall be substantially similar to the colors and materials identified by the applicant and approved by the Commission and on file with the Dept. of Planning and Building.

Building Height

5. Building height shall not exceed 25 feet measured from the sidewalk elevation of the property's Front Street frontage and shall conform to the height shown on the approved plans. Buildings A and F shall be measured from 1st Street and shall not exceed 25 feet in height.

Avila Beach Specific Plan

6. The final design of the structure shall be consistent with the Avila Beach Specific Plan.

Fire Safety Plan

7. Prior to issuance of a construction permit, the applicant shall provide proof of compliance with an approved safety plan from the County Fire Dept.

Water and Sewer Service

8. Prior to the issuance of a construction permit, the applicant shall submit a will-serve letter from the Avila Beach CSD for water and sewer service.

Signage Plan

9. Prior to issuance of a construction permit, the applicant shall submit a signage plan for the proposed structure. The signs shall be consistent with the sign provisions of the Avila Beach Specific Plan.

Landscaping Plan

10. Prior to issuance of a construction permit, the applicant shall submit a landscaping plan for the proposed project. The plan shall be consistent with the landscaping provisions of the Avila Beach Specific Plan and the Coastal Zone Land Use Ordinance.

Undergrounding of Utilities

11. All utilities shall be located underground.

Drainage

12. Prior to issuance of a construction permit, the applicant shall submit a drainage plan to the County Engineer for review and approval. The plan shall incorporate Best Management Practices to handle the runoff from the site pursuant to the requirements of the Specific Plan.

c:\pe\martin.sr

4-13

Front Street Setbacks: The Specific Plan allows for variable front setbacks in this area.

The proposed project has a variable front setback as it entails an entire block. The two corner buildings are located behind low garden type walls and landscaped areas. The interior of the block contains a circular entrance to the central area of the site that includes the swimming pool and other outdoor features. Decorative fences and landscape features are also located in this area.

Side Setbacks: Side setbacks shall be zero feet from the property line at the street frontage. *The proposed project has a zero setback on both sides of the structure.*

7 **Rear Setbacks and Allowable Uses:** A minimum 10 foot setback from property line is required in the rear of the building. The only uses allowed in the setback are parking, service access and landscaping.

The proposed project has a 10 foot setback from the rear property line for landscaped area along the 1st Street sidewalk. Not @ 1000'

Allowable Building Heights: All buildings may be 15 feet tall above the "main street frontage" defined as frontage on Front Street. A building may be up to 25 feet tall if at least one of several criteria are met including a location on a corner lot.

The proposed building is 25 feet high as measured from the Front Street elevation as allowed by the Specific Plan. The two structures located on the 1st Street side of the site are 25 feet high measured from 1st Street as the "main street frontage". Two of the proposed structures that straddle the middle of the site and are located both in the FCR and the 1st Street Commercial Retail areas. These structures' heights are measured from Front Street.

Building Articulation: All facades shall emphasize three dimensional detailing such as cornices, window moldings and reveals. Architectural elements used to provide relief can include awnings and projections, trellises, detailed parapets and arcades.

The proposed structure utilizes many of these details such as projections, awnings, decorative trim and columns.

Building Materials: Buildings materials shall emphasize stucco, painted wood, lap-siding and tile.

The proposed structure includes acceptable materials.

Roof Types/Detailing/Materials: Buildings shall have articulated parapet walls at roof lines; roofs shall be non-reflective.

The proposed plans show well articulated buildings and roof lines. Roofs are located at different elevations and orientations. The proposed metal roof appears in the samples to be non-

4-13

reflective.

Overhangs: Overhangs and awnings are encouraged on each building to provide shade and a sense of enclosure.

The proposed plans show extensive overhangs on all proposed elevations.

Building Scale: New development should give the appearance of being separate buildings on 25' or 50' wide lots.

The proposed project's Front Street elevations and site plan depict two buildings on each corner of the site and an open area between these hotel structures. The placement of the structures and open space and landscaped areas does not result in a long uninterrupted building frontage.

Signage: Several standards address signage for Front Street businesses (B.10 - B.10h). The basic requirements for signage encourage artistic expression, use of icons, and hand painted wood. Signs shall not be constructed of prefabricated letters or plastic.

The signs for the proposed building will be reviewed for compliance with the Specific Plan prior to issuance of a building permit.

Parking Requirements: Uses other than residences or lodging are not required to provide on-site parking, but must pay in-lieu parking fees for any unbuilt required parking.

The proposed project includes 58 offstreet parking spaces. The CZLUO requires 61 spaces for this use. However, the Specific Plan acknowledges that a 19 parking space credit exists for the subject site (see Specific Plan, page 83, section B.13.f - Parking Credit, Block 14). The applicant has chosen to use three of those 19 parking credits to reduce the required number of on site spaces from 61 to 58.

*The credits accrue to this site due to the widening of San Francisco Street to allow diagonal parking that resulted in a loss of square footage to the site and gain of parking on the street. The applicant has stated that it is in the hotel's best interest to maximize the number of parking spaces available on the site and to not use all 19 parking credits. Instead, three credits are being used for the project. *Are they 10?**

The proposed plans are consistent with the Avila Beach Specific Plan.

ORDINANCE COMPLIANCE

Parking

The Coastal Zone Land Use Ordinance (CZLUO) requires a total of 61 spaces for a 54 room hotel. The calculation is as follows:

7

$$\begin{array}{rcccccc} 2 \text{ spaces} & + & 1 \text{ space/unit} & + & 1 \text{ space/10 units} & = & \text{total spaces} \\ (2) & + & (54) & + & (5) & = & 61 \text{ spaces} \end{array}$$


The CZLUO off-street requirements are superceded in this case by the Specific Plan as described above. The 58 proposed parking spaces are located primarily under the structure with 16 spaces located in a surface lot on the 1st Street side of the site.

ENVIRONMENTAL DETERMINATION

A Final Environmental Impact Report was certified by the Board of Supervisors for the Avila Beach Specific Plan on April 11, 2000. Pursuant to California Environmental Quality Act Guidelines Section 15184, an EIR prepared for a Specific Plan can be used for a project that is determined to be consistent with that Plan. No significant impacts of the project have been identified and pursuant to CEQA Guidelines section 15183, no project specific mitigation measures are necessary. The mitigation measures identified in the certified Final EIR prepared for the Specific Plan are adequate. A recommended finding has been included in Exhibit A to reflect the use of the Final EIR prepared for the Specific Plan. The project will pay Avila area circulation fees on a per room basis. Also, as required by the Specific plan, Best Management Practices for drainage will be implemented.

Advisory Council Review

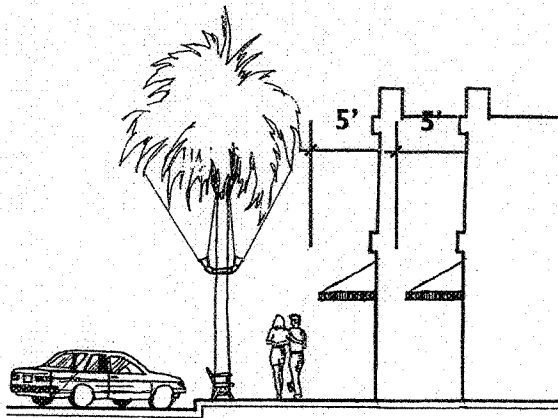
The Avila Valley Advisory Council (AVAC) has established a committee of council and community members to review and comment on proposed development projects in the town of Avila Beach. The Committee brings their recommendation back to the Council to be ratified before it is passed on to the Department and decision-makers. The Committee and the Council have reviewed and commented the plans for this site. The Advisory Council unanimously supported the project with the following understandings:

1. The applicant can use the three parking "credits" identified in the Specific Plan reducing the off street parking requirement from 61 spaces to 58 spaces.
2. Vertical measurements on the elevations are as written not necessarily as scaled.
3. The proposed roof material meets the Specific Plan requirements as non-reflective. 

Staff report prepared by: James Caruso, Senior Planner

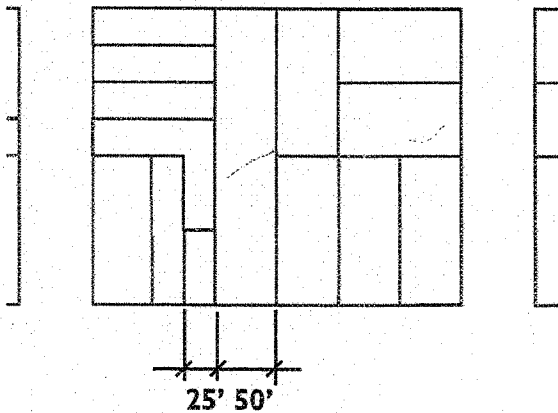
B.7.e. Roof Materials

Roof materials shall be non-reflective.



B.7.f. Overhangs

Overhangs and awnings are encouraged on each building to provide shade and a sense of enclosure for pedestrians. Balconies are also encouraged, and may project up to 5 feet over the sidewalk.



Reflect Land Division

B.8. Building Scale

To help maintain the historical scale of Avila Beach, new development should give the appearance of being separate buildings on 25' or 50' wide lots. A single project may encompass two or more adjacent parcels, but the buildings must be articulated to reflect the historic parcelization pattern.